

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARIA GARCIA de RODRIGUEZ,

Plaintiff,

-against-

TARGET CORPORATION, TARGET ENTERPRISE
OF MINNESOTA, TARGET ENTERPRISE, INC., and
TARGET STORE #1401,

Defendant(s).
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Index No.: 510810/2020

Civil Action

Case No.:

NOTICE FOR REMOVAL

Defendants, TARGET CORPORATION, TARGET ENTERPRISE OF MINNESOTA, TARGET ENTERPRISE, INC., and “TARGET STORE #1401”, (“TARGET”) by their attorneys, FISHMAN MCINTYRE BERKELEY LEVINE SAMANSKY, P.C., respectfully petition the United States District Court, Eastern District of New York, upon information and belief, as follows:

1. This action was commenced on June 24, 2020 in the Supreme Court of the State of New York, County of Kings. The suit is identified in the Supreme Court as “*Maria Garcia de Rodriguez vs. Target Corporation, Target Enterprise of Minnesota, Target Enterprise, Inc., and Target Store #1401*”, Index Number **510810/2020**. A true copy of Plaintiff’s Summons and Verified Complaint is cumulatively annexed hereto as “**Exhibit A**”. Target received notice of plaintiff’s Summons and Complaint on or about July 18, 2020. (See Affidavit of Service annexed as “**Exhibit B**”). The grounds for removal are based on the original jurisdiction of this Court under 28 U.S.C. §1332, which allows this Court to hear matters based on diversity of citizenship of the parties.

2. Filed on August 14, 2020, is a partial stipulation of discontinuance dismissing then – defendants Target Enterprise of Minnesota; Target Enterprise Inc.; and Target Store #1401. Thus, the only defendant in this action is Target Corporation. (See “**Exhibit C**” hereto).

3. The Plaintiff’s Complaint in the Supreme Court of the State of New York, County of Kings, asserts monetary damages relating to personal injuries in a non-specified amount. However, Plaintiff specifically claims that as a result of the incident complained of therein, the plaintiff “was rendered sick, sore, lame and disabled and her injuries are of a permanent nature. That by reason thereof, she has been prevented from following her usual vocation...” (See “**Exhibit A**”, plaintiff’s complaint, paragraph 17).

4. Target filed an answer to plaintiff’s complaint on August 6, 2020. A true copy is annexed hereto as “**Exhibit D**”.

5. On or about August 6, 2020, Target served upon plaintiff’s counsel a number of demands for discovery and disclosure. By way of a response to combined discovery demands dated October 22, 2020 and received by the undersigned on October 27, 2020, and specifically, in response to Target’s demand pursuant to C.P.L.R. § 3017 that plaintiff provide a demand for damages, plaintiff has demanded damages in the amount of “\$2,500,000.00”. A true copy is annexed hereto as “**Exhibit E**”.

6. Based upon the foregoing, there can be no doubt that the amount in controversy herein exceeds \$75,000.00, exclusive of interests and costs. Indeed, plaintiff has claimed damages of over 33-fold such jurisdictional threshold.

7. In addition, this notice of removal is filed within 30 days of plaintiff’s damage

disclosure dated October 22, 2020.

8. On or about August 6, 2020, Target served upon plaintiff's counsel a request to admit, namely that plaintiff admit that as of the time of the within cause of action arose, that is, the date of her accident, as well as presently, plaintiff is a citizen of the state of New York. A copy of said request to admit is attached hereto as "**Exhibit F**". On October 22, 2020, and received by this office on or about October 27, 2020, plaintiff failed to properly respond to said request to admit by only admitting that plaintiff "resided" in the State of New York on the date this cause of action arose, as well as presently. However, plaintiff's failure to either admit or deny the contents of the request to admit, namely as to whether or not she was a citizen at the time of the cause of action, is deemed an admission thereof under C.P.L.R. § 3017. Indeed, plaintiff's summons and complaint, she admits to being a resident in the State of New York as of the time the cause of action arose.

9. Target is a corporation, incorporated in the state of Minnesota. Moreover, Target has its principal place of business in Minneapolis, Minnesota. (See **Exhibit G** hereto).

10. Based upon the foregoing, diversity of citizenship exists. Plaintiff is a citizen of the State of New York. On the other hand, Target is a foreign business corporation, incorporated in and having its principal place of business in Minnesota. Therefore, this action is between a citizen of the State of New York (plaintiff) and a corporation of a state other than New York, the defendant, Target Corporation.

11. Written notice of the filing of this Notice of Removal has been given to all parties in accordance with 28 U.S.C. §1446(d), as evidenced in the annexed Certificate of Service.

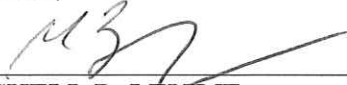
12. Promptly after filing this Notice with the Court and the assignment of a civil docket number, a copy of this Notice will be filed with the Supreme Court of the State of New York,

County of Kings, in accordance with 28 U.S.C. §1446(d).

WHEREFORE, Petitioner, TARGET CORPORATION, Defendant in the action described herein now pending in the Supreme Court of the State of New York, County of Kings, under Index Number 510810/2020, prays that this action be removed there from to this Honorable Court.

Dated: New York, New York
November 13, 2020

Yours etc.,



MITCHELL B. LEVINE
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SAMANSKY P.C.

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TARGET CORPORATION

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